

EXHIBIT

A

STATE OF MICHIGAN
THIRD CIRCUIT COURTSUMMONS AND
RETURN OF SERVICE

CASE NO. 10-008381-CZ

COURT
ADDRESS: 2 WOODWARD AVENUE, DETROIT, MICHIGAN 48226COURT
TELEPHONE NO. (313) 224-

THIS CASE ASSIGNED TO JUDGE:

Susan D. Borman

Bar Number: 11016

PLAINTIFF

DEFENDANT

RILEY, CEDRIC L

VS

FRABRIZIO & BROOK PC

PLAINTIFF'S ATTORNEY

RILEY, CEDRIC L
(P-)
25360 SIMPSTER RD
BELLEVILLE, MI 48111

CASE FILING FEE		JURY FEE	
Waived		No Jury Demand	
ISSUED	THIS SUMMONS EXPIRES	DEPUTY COUNTY CLERK	
07/22/2010	10/21/2010	Pamela Oliver	

*This summons is invalid unless served on or before its expiration date.

Cathy M. Garrett - Wayne County Clerk

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
 2. YOU HAVE 21 DAYS after receiving this summons to file an answer with the court and serve a copy on the other party or to take other lawful action (28 days if you were served by mail or you were served outside this state).
 3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
- ☐ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.
- ☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- ☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The docket number and assigned judge of the civil/domestic relations action are:

Docket no.	Judge	Bar no.

The action ☐ remains ☐ is no longer pending.

I declare that the complaint information above and attached is true to the best of my information, knowledge, and belief.

Date 8-4-10

Signature of attorney/plaintiff



COMPLAINT IS STATED ON ATTACHED PAGES. EXHIBITS ARE ATTACHED IF REQUIRED BY COURT RULE.

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangement.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CEDRIC L. RILEY

Plaintiff,

VS.

**HOMEQ SERVICING , and
OCWEN LOAN SERVICING, and
MTGLQ INVESTORS LP, and
FABRIZIO & BROOK, P.C.**

Defendants.

CEDRIC L. RILEY,
Plaintiff temporarily In Pro Per
25360 Sumpter Rd.
Belleville, MI 48111
(313)268-3452

FABRIZIO & BROOK, P.C.
Attorney for
Defendants
2888 W. Big Beaver, Ste. 800
Troy, MI 48084

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the Complaint.

COMPLAINT

NOW COMES the plaintiff, **CEDRIC L. RILEY**, Temporarily In Pro Per, and for his Complaint against the above named defendants, states as follows:

1. That the plaintiff is and was at all times material herein, a resident of the city of Belleville, County of Wayne, State of Michigan.

RILEY, CEDRIC L v HOMEQ SERVICING
Hon. Susan D. Borman 07/22/2010



10-008381-CZ

FILED
CATHY M. GARRETT
WAYNE COUNTY CLERK
200 JUL 22 4:55

2. That the Defendant **HomeEQ Servicing**, and the Defendant **Ocwen Loan Servicing** and the Defendant **Fabrizio & Brook, P.C.** were at all times material herein, conducting business through interstate commerce and doing business in the County of Wayne, State of Michigan.

3. That the events that give rise to this complaint occurred in the City of Belleville, County of Wayne, State of Michigan.

4. That the amount in controversy herein is in excess of \$25,000.00 which vest this court with jurisdiction.

FACTS AND CIRCUMSTANCES

5. The plaintiff had a dispute with his Mortgage companies, Defendants **HomeEQ Servicing** and **Ocwen Loan Servicing**, to an issue with charges and fees and ambiguous amounts claimed to be due to Defendants **HomeEQ Servicing** and **Ocwen Loan Servicing**.

6. The Plaintiff had a dispute with his mortgage company, Defendant **HomeEQ Servicing**, to an issue with a request for assistance where the Defendant **HomeEQ Servicing** had agreed to a loan modification to assist the Plaintiff, during his time of financial difficulty.

7. Defendant **HomeEQ Servicing** required a cashier's check in the amount of \$5,350.00 in order to enter the loan modification agreement.

8. Plaintiff used all of savings and borrowed funds from family members and friends in order to pay the requested \$5,350.00 via Moneygram, which payment was confirmed as being received by Defendant HomeEQ Servicing via a telephone call.

9. Once Plaintiff's payment was confirmed as being received by Defendant HomeEQ Servicing, a Modification Agreement was mailed out to the Plaintiff. The Plaintiff reviewed the loan modification paperwork and noticed that the mortgage amount had decreased by a merely \$62.00/month.

10. The plaintiff requested Defendants HomeEQ Servicing and Ocwen Loan Servicing, to provide a "detailed accounting and a tracking" of when, where, how the plaintiffs monthly mortgage payments and the "charges and fees" added on to plaintiffs account, "were calculated", posted, distributed and/or disbursed (if there was any disbursement), by whom and to who.

11. That pursuant to the Fair Debt Collection Practices Act at § 809. Validation of debts (15 USC 1692g), the plaintiff wrote a letter to Defendant requesting they validate the debt , and plaintiff is/was entitled to this information and plaintiff accordingly followed the requirements of § 809. Validation of debts (15 USC 1692g), and did:

- a. write the Defendant, and
- b. request that the Defendant " validate" the debt

12. That the Defendants, after Plaintiff sent them the written request to validate the debt, had not only failed to validate the debt, and failed to respond to the request at all.

13. Defendant and Defendants counsel, (also defendant herein) were not allowed and prohibited from starting any foreclosure, instituting

a sheriffs sale, and commencing any civil action against plaintiff , under prohibited acts of § 809. Validation of debts (15 USC 1692).

14. The Defendants (counsel) were to "cease debt collection" when notified of the validation request and cease debt collection when Defendants failed to validate the debt.

15. The Statute 15 USC 1692g and the Unites States Court of Appeals , and a Indiana Court of Appeals ruling further established additional requirements that "Defendants are not allowed to collect, continue to proceed, or file any civil action if they fail to validate the debt."

In Spears v. Brennan, the Court of appeals ruled as follows:

"Finally, we address Spears' claim that Brennan violated 15 U.S.C. § 1692g(b) when he failed to cease collection of the debt after receiving Spears' written notification, within the thirty-day debt validation period, that Spears was disputing the debt." 15 U.S.C. § 1692g(b) reads:

If the consumer notifies the debt collector in writing within the thirty day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

15 U.S.C. § 1692g(b) (emphasis added). On November 12, 1996, nineteen days after the date of Brennan's debt collection letter, Spears' counsel Shepard sent Brennan a letter declaring that Spears "disputes your debt collection-related allegations, denies the same, and demands strict proof and verification thereof." Record at 21. **As such, Brennan should have ceased his debt collection efforts immediately upon receiving that letter. Instead, Brennan proceeded to obtain a default judgment against Spears on the debt collection claim before he had mailed Spears the necessary verification and, thus, violated 15 U.S.C. § 1692g~).**

Brennan maintains, however, that there was no violation of the FDCPA because he "sent adequate verification of the debt [to Spears] in the October 30, 1996 notice of claim." Brief of Appellee at 13. Specifically, **Brennan claims that a copy of the consumer credit contract between Spears and American**

General attached to the notice of claim provided sufficient verification of the debt within the meaning of 15 U.S.C. § 1692g(b). We cannot agree.

The contract in no way provides sufficient verification of the debt. A review of the document reveals that it identifies only the terms of Spears' loan, including a 17.99% annual interest rate and the original loan amount of \$2,561.59. The loan agreement contains no accounting of any payments made by Spears, the dates on which those payments were made, the interest which had accrued, or any late fees which had been assessed once Spears stopped making the required payments. Indeed, the existing unpaid contract balance at the time Brennan sent the debt collection notice was at least \$350.00 more than the original loan amount. Therefore, Brennan violated 15 U.S.C. § 1692g(b) when he failed to cease collection of the debt by obtaining a default judgment against Spears after Spears had notified Brennan in writing that he was disputing the debt but before Brennan had mailed verification of the debt to Spears. We reverse the trial court's entry of summary judgment in favor of Brennan on this issue.

We reverse the trial court's entry of summary judgment in favor of Brennan on Spears' claim that Brennan violated 15 U.S.C. § 1692g(a) when he scheduled the November 27, 1996 hearing on the debt collection claim and obtained a default judgment against Spears on that date. Having found the existence of a genuine issue of material fact with respect to this issue, we remand to the trial court with instructions to determine, in accordance with the principles set forth in this opinion, when Spears received Brennan's debt Collection notice and whether Brennan violated the FDCPA by scheduling the November 27, 1996 hearing and obtaining a default judgment against Spears within the thirty-day debt validation period.

We reverse the trial court's entry of summary judgment in favor of Brennan with respect to the remainder of Spears' claims as identified herein. Having found, as a matter of law, multiple violations of 15 U.S.C. §§ 1692g(a) and (1)), we further remand to the trial court for a determination of damages in accordance with the FDCPA. Affirmed in part, reversed in part and remanded for further proceedings. SULLIVAN, J., and BROOK, J., concur.

16. The Defendants (and their counsel) herein have willfully, wrongfully :

- A. instituted foreclosure proceedings against plaintiff,
- B. wrongfully foreclosed upon plaintiffs property, and
- C. wrongfully effected a sheriffs sale of plaintiffs home;

all without the standing , authority and right to do so, in violation of the aforementioned.

17. FURTHER, during the pendency of this Wayne County Circuit Court Case , the Defendants have again wrongfully:

A. OBTAINED an ORDER OF EVICTION by foreclosure by

Sheriff's sale on July 22, 2009, having Instituted, a civil

action against plaintiff in the District Court, and

18. Defendants failed to produce anything in writing and validate the debt under 15 USC 1692g , additionally the defendants were not entitled to proceed any further , in any action or venue, or collect anything from plaintiff.

Defendants (should have) , pursuant to law, must provide Plaintiff with :

- a. a complete payment history, starting with
- b. the original creditor
- c. what the amount of the debt was when it was assigned , each time it was assigned, and
- d. what fees and or interest has been added on to this debt, and
- e. how the fees, if any, were determined , and by whom

19. Instead of Defendants complying with § 809.Validation of debts [15 USC 1692g)), the Defendants and their counsel, wrongfully instituted foreclosure and court proceedings, and the Plaintiff have suffered damages.

20. That as a direct and proximate result and consequence of the Defendants conduct, the Plaintiff has suffered mental anguish as a

consequence of such wrongful and outrageous conduct of the defendants, and all of them, as herein alleged.

21. Further, Plaintiff has suffered humiliation, degradation, and incurred expenses, including medical expenses, all past, present and future.

WHEREFORE, Plaintiff herein pray for an award or Judgment in an amount of no less than \$185,000.00 as to and from each Defendant for such general and punitive and/or exemplary damages, or an award of Judgment in an amount the court or jury shall deem to be fair and just at the time of trial of this cause of action, as to plaintiff from and against each defendant, plus interest, cost, and attorney fees as allowed by law.

COUNT I

VIOLATION OF FDCPA § 809. 15 USC 1692

22. For Count I, the Plaintiff alleges "Violation of the FDCPA § 809. 15 USC 1692" Intentional Infliction of Emotional Distress" against him, and Plaintiff realleges and incorporates by reference paragraphs 1 through 17 of this complaint, inclusive of each and every paragraph and exhibit as though it were fully stated below word for word, paragraph for paragraph, exhibit by exhibit, and states as follows:

23. Under the Fair Debt Collection Practices Act § 809.Validation of debts [15 USC 1692g)), the Defendants must show proof positive that Plaintiff owes them (HomeEQ, Ocwen, MTGLQ) this debt.

a. It's not enough to send Plaintiff a computer generated printout of the debt. There is an opinion / ruling letter from the Federal Trade Commission to support this, and can be easily accessed at <http://www.ftc.gov/os/statutes/fdcpa/letters/wollman.htm>:

24. Defendants must provide Plaintiff with a complete payment history, starting with

- a. the original creditor
- b. what the amount of the debt was when it was assigned , each time it was assigned, and
- c. what fees and or interest has been added on to this debt, and
- d. how the fees, if any, were determined , and by whom

*This requirement was established by the case Fields v. Wilber Law Firm. Donald L. Wilber and Kenneth Wilber, USCA-02-C-0072. 7th Circuit Court, Sept 2004.

25. Defendant must provide Plaintiff with a copy of the original signed loan agreement establishing the debt between plaintiff and defendant.

26. If Defendant cannot validate the debt , providing the above required and requested information;

- a. Defendants are not allowed to collect the debt ,
- b. Defendants are not allowed to contact Plaintiffs about the debt, and
- c. Defendants are also not allowed to report it under the Fair Credit Reporting Act (FCRA).

Doing so is a violation of the FCRA, and the FDCPA states that Plaintiff can sue for \$1000 in damages for any violation of the Act. It also states that Plaintiff can sue in federal or state court for each reported violation.

27. That the Defendants willfully violated the FDCEPA, and the Plaintiff have suffered damages.

28. That as a direct and proximate result and consequence of the Defendants conduct, the Plaintiff has suffered mental anguish as a consequence of such wrongful and outrageous conduct of the Defendants, and all of them, as herein alleged.

29. Further, Plaintiff has suffered humiliation, degradation, and incurred expenses, including medical expenses, all past, present and future.

WHEREFORE, Plaintiff herein pray for an award or Judgment in an amount of no less than \$185,000.00 as to and from each Defendant for such general and punitive and/or exemplary damages , or an award of Judgment in an amount the court or jury shall deem to be fair and just at the time of trial of this cause of action, as to Plaintiff from and against each Defendant, plus interest, cost , and attorney fees as allowed by law .

COUNT II
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

30. For Count II, the Plaintiff alleges "Intentional Infliction of Emotional Distress" against him, and Plaintiff realleges and incorporates by reference paragraphs 1 through 25 of this complaint, inclusive of each and every paragraph and exhibit as though it were fully stated below word for word, paragraph for paragraph, exhibit by exhibit.

31. At all times relevant hereto Defendants, and all of them , owed to Plaintiff the following duties:

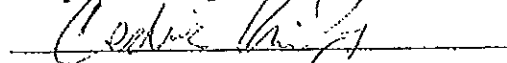
- A) To refrain from inflicting intentional emotional distress upon the Plaintiff,
- B) To refrain from treating Plaintiff, who is a law abiding citizen, in an extremely and outrageously abusive manner;
- C) To refrain from depriving the Plaintiff of his rights under the FDCA 15 USC without excuse or justification.

32. That as a direct and proximate result and consequence of the Defendants breach of duty to the Plaintiff, the Plaintiff has suffered mental anguish as a consequence of such wrongful and outrageous conduct of the Defendants, and all of them, as herein alleged.

33. Further, Plaintiff have suffered humiliation, degradation, and incurred expenses, including medical expenses, all past, present and future.

WHEREFORE, Plaintiff herein pray for an award or Judgment in an amount of no less than \$185,000.00 as to and from each Defendant for such general and punitive and/or exemplary damages , or an award of Judgment in an amount the court or jury shall deem to be fair and just at the time of trial of this cause of action, as to Plaintiff from and against each Defendant, plus interest, cost , and attorney fees as allowed by law .

Respectfully submitted by,



CEDRIC L. RILEY,

Plaintiff temporarily In Pro Per